G.R.S. III-21

Previous references. 1924 (R.A) R.A **File No.** 29-23

Serial Nos. 2, 6, 12, 14A 28 & 60

Later references. To be preserved for the present

DJ 21/12/24

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 6 ✓

Part B for September 1924.

SUBJECT

Appeals ~~Petitions~~ against the elections of Messrs. M. Subba Rao and Basappa and ors. on a/c certain irregularities & corrupt practices in Hagga d devanakote Mysore Dist.

8(60) To Messrs. C. Narasimhiah, B. Lakshminarayanappa & others No. P 747 18.8.24.

Govt. dismiss the appeal & confirm the orders of the D.C. Mysore

Received at Secretariat on 15.9.24.

G. R. S. III—1] 1923-24

GENERAL AND REVENUE SECRETARIAT.

(R A)

NOTES.

File No. 29-23

FILE HEADING.

Appeals against elections to the Legl: Assembly

From Mr. C. Narasimiah & Others

No. Appeal petition Dated 5th Received 5.3.24

Diary No. 3893 Enclos. Spare Copies. Serial No. 2

BRIEF ABSTRACT OF LETTER.

Appeal against the election of Messrs. Mr. Lakka Rao & Dasappa praying to set aside the elections on the ground of material irregularities & corrupt practices & fresh decision passed on merits

NOTES AND ORDERS.

Orders of the L & L Secy on the petn
" Call for the Records &c
(Init) Bm
5/3.

Draft submitted
Issue
5/3

5/3.

NOTES—First Sheet.

3931

G. R. S. III-2]

General and Revenue Secretariat. | R/A File No. 29 of 19.23

Serial No.

6. To The Dy Comr Nuwara Eliya
No: P/L/9147 d/7.3.24
Forwards the petition with its
d/o enclosures for favour of
An immediate report with
Records.

12 From Mr Chandra Lakshmanan
of Belatmee, Haggadaduwakke
Petition - nil d/7.3.24
Requests the early disposal of
the appeal petition re: the disqua-
-tion in the elections to the R/A of
Haggadaduwakke Rural constituency
Submitted. The appeal petition
by Messrs C. Narayanan & 3 Ors
of Haggadaduwakke against
the election of Messrs M. Subba
& Dasagowda from Haggadaduwa-
-kke Rural Constituency to the
R/A has been forwarded by
the Dy Comr Nuwara Eliya for
An immediate report with records
And his report may be awaited. yes

Perused to Mr Rowan on 7/3/24

(of which Mr. B. Lakshmanarayana is one)

Sus. A
Rec'd 13/3
8/3

13/3

14 A From The Dy Comr Nuwara Eliya No. R/A. 6

NOTE—Contn. sheet.

23-3

G. R. S. 111-2]

General and Revenue Secretariat.

RA File No. 29 of 1923

Serial No.	
	Dated 10.3.24
	Forwards the records &c. the objects petitions of Messrs. C. Narasimhaya & others who called for this State that the facts of the case have been fully set
Flag A	forth in the Order of 1.3.24. which is in the file.
	5 Submitted for perusal and orders.
	6. Every point of the Dy Com^r is contended by the appellants
	19/3

4097

G. R. S. III-21

General and Revenue Secretariat.

R & A File No. 29 of 1923

Serial No. 28

From Mr. M Venkatakrishnaya Mysore D/ 12. 3. 24 Received in the S. Sec. on 18/19.3.24

Forwards copies of papers relating to the conduct of election in Hoggada-devanakote Taluk and states that the originals of all these papers are in the file appeal already submitted to Government by Mr. C. Narasimiah.

I submitted the file relating to the appeal petition have already been submitted for orders. If appeal these papers also will be placed in that file. Yes. cy

D 3978 (Rs 2.)

Sd/ [illegible]
28/3

Serial No.

9 The appellants contest the elections of the respondents on various grounds in the election which took place at Heggadadevankote on 15-2-192

H. G. 10 The first ground ~~did not continue~~ is that election did not commence at 11 A.M. as require by the rules and that it closed at 10 P.M. The

H. 7. Amildar stated that it commenced at 11 A.M. The appellants challenged this statement and rely or the evidence of the witnesses Dyavanna D.W.1 and D.W.3 Muddegowda. Dyavanna says that he came at

H. Y. noon and voted at 9 or 9.30 P.M. Muddegowda says that he went to the office at 11 A.M. and voted a 2 P.M. He does not say that the voting began at 12 Noon. There is no witness who says that he we to the polling room at 11 A.M. and the Amildar wa not there to take his vote. This ground is not substantiated.

H. G. 11 The next ground is that there was no secre at the place of polling. The grievance is that th polling officer did not provide a place screened

H. T. from observation, ~~where~~ the voter could proceed to record his vote as required by Rule 10 (a). It is clear that from the evidence on record and from th other papers that no such place was ~~provided~~ provided for. It is also clear that the voters were marking their vote or their votes were being marked in the presence the polling officer, the two associates and the o cials helping the polling officer. The procedure

H. Z admitted by the Polling officer and his associate with regard to illiterate voters is that they wer

NOTE—Contn. sheet.

Serial No.

were openly asking them to state the names of the candidates for whom they were voting.

H. G

12 The third ground is that the associate Mr. Venkataramia was scoring out the names in the voting paper in the case of both literate and illiterate voters. Mr. Venkataramia admits that he did so in a few cases of illiterate voters but states that the Amildar was verifying his action by questioning the voter. This procedure is opposed to Rule 10 clause (c) under which the polling officer himself should score out the names in the voting paper and attested by him.

H. R.

13 The fourth ground is that the voting box was not sealed and the key was given to one of the candidates. The box does not seem to have been sealed. The key of the Legislative Council box was given to the candidate Mr. M. Subba Rao as he himself says in his evidence. He further says that the key of the R.A box was with another candidate Lakshminaranappa- P.W.3 Syed Rahim Bab says that Mr. Subba Rao gave the key to the polling officer at the end when the box was opened. The fact that the box was not sealed is opposed to rule 11.

H. X.

14 The fifth ground is that the voters whose numbers were 38 and 48 were below 21 years. D.W.4 Dyavegowda says that Veerabhadraiya is 10 or 16 years old. This objection cannot be entertained at this stage. The polling officer has merely to satisfy himself that the person voting was the person whose name appears on the roll- Every person whose name appears on the electoral roll is entitl

NOTE—Contn. sheet.

Serial No.

H. D, to vote. See rule 9 page 84 of the Manual. So the polling officer had no discretion to reject the vo of a person whose name appears on the roll.

H. X 15 The 6th ground is that one Lingegowda son of Sambu Gowda voted, while the name on the electoral roll was Lingegowda son of Subbe Gowda bearing No. H E 241 ~~on the roll~~. The Amildar says that the perso/ H V who voted was the correct person; though his -- father's name was printed as Subbe Gowda in the H. J list. From the evidence it is clear that the Amildar made enquiries and satisfied himself as t H K his identity. The petitioner's witness Karigowda says that the voter Lingegowda son of Sombhugowda H S voted. P.W.4 Mallegowda says that this person was the patel's uncle's son. There is no evidence to H E show that voter No.241 is any other than the one who actually voted.

H. X 16 The 7th ground is that Patel Dodday Gowda was canvassing votes for Dasegowda and since he brought a minor person Sambhu Gowda it amounted to corrupt practice. This ground does not arise in the light of consideration in the previous paragraph.

H. L 17 The 8th ground that on account of the election being held at unauthorised hours many voter H. A who could have voted did not vote. The Amildar says that it was at the request of the voters that he continued the polling till late in the night; H. 7. though the official memo of instructions required the presence of the polling officer between 11 A.M and 5 P.M.

NOTE—Contn. sheet.

Serial No.

18 The question then is whether all or any of these irregularities vitiate the election. The law on the subject is stated in Hansbury's Laws of England Vol.XII page 322 where it is said that the election need not be set aside in spite of irregularities if no corrupt ~~practices~~ motives could be attributed to the polling officer or his subordinates and if the result of the election is not and could not have been affected by these irregularities. But if ~~It~~ it is open to reasonable doubt as to whether the result was affected by the transgressions and it is uncertain whether the candidate was returned by a majority, the election is to be set aside. In short the question is whether irregularities were material or not.

19 Of these irregularities the 4th i.e. about the sealing of the box is immaterial as ~~to~~ the box was always in the presence of others in the polling office and besides the associates, there were others who were officials in the room. H.R.

20 The 5th and 6th grounds are also immaterial as even taking the votes of Nos.38,48 and 241 as being invalid, the result will not be in favour of the petitioners. The same reason applies to the 7th ground. H X

21 The 2nd ground may perhaps be urged to be a material irregularity as the voter would certainly hesitate to give out his opinion in public and it is very likely that the voters did not give out their votes out of their free choice. H G

Serial No.

H 3. 22 The third ground as to Venkataramiah marking the papers may perhaps be urged to be also a material irregularity in spite of his saying that the Amildar verified his marking. This procedure is opposed to the strict provision in rule 12 (10) on page 85 of the Manual.

H.M, H 2 23 As to the 8th ground, viz. the voters not voting on account of the polling at unauthorised hours M. Subba Rao says in his statement that one Kempa Setty came when they were counting the votes. Though the Amildar might be right in continuing the polling after 5 P.M., yet since he did not fix any hour at which he would close, it may be said that some voter might have come even after the polling was closed, like Kempa Setty.

H Q 24 The grievance and dissatisfaction on the part of the appellants were expressed in a petition filed before the polling officer prior to the box being opened and that petition contained the same allegations as the petition filed before the Deputy Commissioner.

H 2 H 2 H 2 25 The 2nd, 3rd and 8th grounds were, if at all, errors of the officers charged with carrying out the rules relating to the conduct of elections and unless the officers are shown to be interested in helping the successful candidates should not affect the result of the election. There is nothing to show nor even a suggestion that the polling officer was in any way interested in the successful candidates. There is nothing to show that Mr. Venkataramaiah was interested in them. In this connection Rule 3 on page 103 of the Manual may be referred to. Under this rule the District Judge

NOTE—Contn. sheet.

H. C.

Serial No.

should not set aside the election to the Legislative Council on account of any error of the polling officer or of an irregularity or informality not caused corruptly. Though such a provision as this is not in made in the rules relating to the elections to the Representative Assembly, the principle of this rule seems to be applicable to them also.

26 Submitted for orders.

25-4/8

27 The principle seems to be that no election should be set aside in spite of irregularities if no corrupt motives could be attributed to the Polling officer or his assistants and if the irregularities do not affect the result of the elections.

28 The only grounds that may be considered as coming within the category of irregularities are the 2nd and 3rd.

29 The 2nd ground cannot be said to have - - - affected the result as no voter has come forward and deposed that he did not exercise his free will owing to want of secrecy.

30 The only other ground is that the associate Mr. Venkataramia was scouring out the names in the voting paper in a few cases concerning - - - illiterate voters. He says that the Amildar was verifying his marking.

NOTE—Contin. sheet (P22)

Serial No.

Rule 10(c) is as follows:--

"If an elector is unable to read or write or is, by reason of blindness or other physical defect, incapacitated from recording his vote as required by rule, the polling officer may assist him, if so desired, in marking the vote on the voting paper and a record of the same shall be made on the voting paper and attested by the Polling Officer."

It is not shown that the Amildar (Polling Officer) failed to make the necessary endorsements and attest the same. This failure may amount to an irregularity. There is no such proof in this case. The consequence of such an irregularity is that provided in Rule 10 (e) namely 'any such vote which is not recorded in accordance with the foregoing instructions shall be declared invalid.'

Since no such proof is given it is difficult to hold that any vote was invalid.

For these reasons it may perhaps be held that the irregularities if any were not such as to vitiate the election.

The appeal should be dismissed.

NOTE—Conton. sheet.

3928

(12

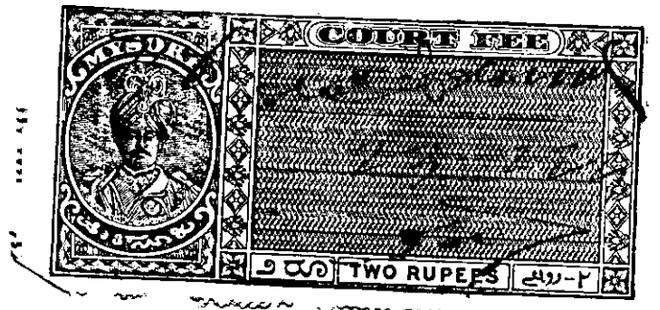
G. R. S. III-2]

General and Revenue Secretariat. | File No. 29 of 1923

Serial No.	
	Draft submitted.
	13/8
	13/8
	appd 13/8
	16/8
60	To Messrs C. Narasimhiah, Balathur Lakshmiah Narayanappa & Others Candidates elected to R. A. Heggadadevankote. No P. 747 dt 18. 8. 24. With reference to their appeal petition praying to set aside the order of the D.C. declaring Messrs. M. Subba Rao & Basavaiah as duly elected members of R.A. stating that Court consider that the irregularities if any are not such as to vitiate the election and dismiss the appeal.
	Memo no P. 748 dt 18.8.24. To copy to D.C. Mysore Dist. & return the file of records received from him.

NOTE—Contn. sheet.

< To be returned with expd >



3803
P
RA 29 23-2
13)

Between Jal Zulfer
Electric appellant
and
Peters C. Hancock
& others.

Presented
& Work. Rec

Call for
the record
above.

8/3
573.
Can
573

Thibaut & Polak
appellants' Solicitors

8

Appeal against the order of the Deputy - Commissioner, Mysore District.

The Appellants beg to submit this appeal against the order of the Deputy Commissioner, Mysore District, dismissing the objection Petition re the election of two Members to Representative Assembly from the Heggadadevanakote Taluk, for the following among other reasons:-

1. Rules regulating the conduct of election declare that election should begin at 11 precisely. But the learned Deputy Commissioner while believing that voting actually began at 12.30 seems to rely upon the explanation of the Polling Officer - the Amildar. Respondents' own witnesses D.W.1 Dyavanna says " I came at 10 O'clock and voted at 9.30. " - D.W.3 Mudde Gowda says " I came at 11 - Vote began at 12 and I voted at 2." In the face of the - evidence of the opposite side the explanation is untenable and is only a plea for some explanation. The learned Deputy Commissioner has erred in law in holding that this is not very important. (On the last Election, Seringapatam - Polling commenced at 11.10, declared illegal and fresh election ordered).

2. Under Rules relating to conduct of election. Rule 10 (a) declares the elector should proceed to a place screened from observation which shall be provided by Polling Officer and there mark his vote.

In para (2) of his order the learned Deputy Commissioner is positive that no

no screens or partitions were actually placed ~~xx~~"in the voting place." The learned Deputy Commissioner had in fairness and as per direction of law ought to have decided the point in favour of the Appellants. But the learned Deputy Commissioner goes beyond the section of law and declares - contrary to the evidence adduced by the successful candidates - that the whole room was kept sufficiently private. It is really difficult under the circumstances to find out what is sufficient and privacy when direction of law is disobeyed. On this - point besides the evidence of four very respectable witnesses on the Appellants' side- there is the evidence.

D.W. 3 Mudde Gowda, D.W. 4 Dyave Gowda. who depose that they were openly questioned before five persons and one of them was their Shanbogue and that they gave out the names openly to the hearing of all the five. When these voters were asked openly in the presence of the local Magistrates and officials, especially when two of them as admitted by the successful candidate were of the same community as himself - with what grace the voters would speak out their mind is the point for consideration.

3. Rule 10 (c) says if an elector is unable to read or write ..... the Polling Officer may assist him in marking the vote on the vote paper and a record of the same shall be made

made on the vote paper and attested by the Polling Officer. The procedure is absolutely ignored. No heed paid. No attention or initial made on vote paper.

The Polling Officer admits in clearer terms that during the polling one Mr. Syed Rahim Sab (P.W.3) protested against the method of business and said that Mr. Venkataramiah, an Associate had no authority to strike out the names. It is also admitted that an application signed by some voters and candidates was presented then and there protesting against the wrong and high handed procedure of polling.

The learned Deputy Commissioner writes in para 2 of his order the Amildar admits that in a few instances the work of scoring was done by Mr. Venkataramiah as an Associate under his instruction - "But the learned Deputy Commissioner opines that this ground of objection does not avail the Petitioners." The Appellants are unable to understand the learned Deputy Commissioner.

(4) Rule 10 (e) says:- Any vote which is not recorded in accordance with the foregoing instruction - shall be declared invalid. Under this rule no option is left to the learned Deputy Commissioner to ignore the direction of law. He ought to have declared the votes as irvalid instead of accepting some plausable explanations or supplement the same with his opinion.

(5) Rule (11) says:- "The ballot box shall be constructed ..... it shall be securely sealed by the Polling Officer with his seal." The Polling box had not been sealed. With regard to this the learned Deputy Commissioner in para 3 of his order says "the failure to seal it, however blame-worthy cannot be considered." If every item of objection is so disposed of summarily without regard to the direction of law, the Appellants may not have a case.

(6) The Appellants contend that key of the ballot box was with Mr. M. Subba Rao, one of the successful candidates.

With regard to this the learned Deputy Commissioner observes in para 3 of his order "The key it is explained was with one of the Associates under the instructions of the Amildar as an additional measure of precaution." This does not seem to be the explanation of any one. Appellants' witnesses swear that the key was with Mr. M. Subba Rao and he gave the key to the Polling Officer.

Respondent No. 1, Mr. Subba Rao says the Legislative Council box key was with me and the key of the Representative Assembly was kept on the table.

Respondent No. 2 says Legislative Council box key was with Mr. M. Subba Rao and the - - Representative Assembly box key was with one of the Appellants.

The Appellants are unable to understand how one of the Associates came to have the key. During the course of the conduct of the case the Appellants requestdd the Deputy Commissioner to let them know whether any explanation is forthcoming from the Amildar about the possession of the key. The Deputy Commissioner replied that there is no explanation on that - point. Under the circumstacnes, the learned Deputy Commissioner had no material to arrive at that conclusion.

7. The Appellants allege corrupt practice on the part of the successful candidates. The learned Deputy Commissioner holds that "Corrupt Practice" has not been proved. On this point the learned Deputy Commissioner has not read the evidence in the case and his conclusions are incorrect.

Respondent No. 1:- Shanbogue Venkatasubbia and his son Subba Rao may have canvassed for me. They are my caste men.

It is note worthy that voters Nos. 38 and 48 are raiyats of the village or villages of which Subba Rao is a shanbogue. Voters 38 and 48 are minors below 21 years of age. The learned Deputy Commissioner observes with regard to this item there is no satisfactory or clear evidence. The best evidence would have been the boys - themselves. The Appellants summoned these boys but the summons were never sent nor was an opportunity given to Appellants to produce

produce the boys before Court. However there is the evidence of D.W.4 who says that voter No. 38 is between 10-16 years and is not more than about 4 feet. When the case is proved by the hostile party itself it is strange to say that there is no satisfactory evidence. Further the learned Deputy Commissioner's argument that the Appellants cannot raise this objection after the voters' names are published is erroneous. Age rule is independant of the electoral roll.

8. It is alleged in the original petition para IV. that one Linge Gowda son of Shambu Gowda is not a voter. That 2nd Respondent Mr. Dasey Gowda has through his agent Patel Dodde Gowda of Chakkur secured a vote by that Linge Gowda.

This allegation, namelym that Patel Doddey Gowda was his Agent is not denied by the 2nd Respondent, the successful candidate.

On this point there is evidence on record to show that Patel Doddey Gowda was 2nd Respondent's Agent.

P.W.1, Kari Gowda, says, that 2nd Respondent with the said Doddey Gowda had come to his village for canvassing and that the latter requested him to vote for 2nd Respondent.

P.W.4, Mari Gowda, says, that 2nd Respondent and Doddey Gowda are caste people, that 2nd Respondent stopped in Doddey Gowda's house in Chakkur on the previous day.

The Petitioners swear to the allegation. There

(20)

There is no counter evidence. Such being the case, it is conclusively proved that Doddey Gowda was 2nd Respondent's authorised Agent, if not of both - Respondents.

Corrupt Practice is defined in Government - Notification No. P. 2400 dated 7th November 1923. Para 2 (iii) says - who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote " and explanation under the same Rule runs as follows:- a corrupt practice shall be deemed to be committed by a candidate, if it is committed with his knowledge and consent or by a person who is acting under the general or - special authority of such a candidate with reference to the election."

It is admitted by the successful candidates and particularly by 2nd Respondent that there was some trouble with regard to the voter, Lingey Gowda son of Shambu Gowda. The details of discussion before the Polling Officer are narrated in para 2 of the original petition. From that it will be seen that it was not by ignorance that that voter was brought but was brought by authorised Agent Doddey Gowda deliberately to vote for the successful candidates.

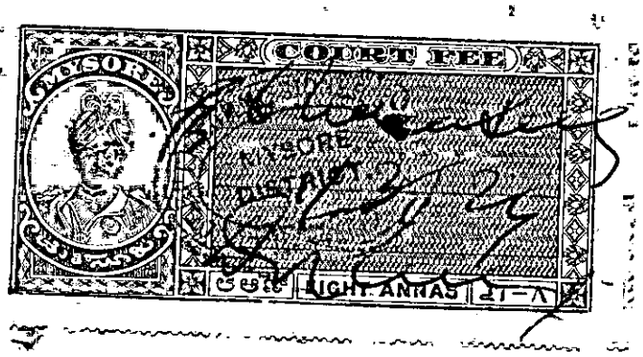
In this connection the conduct of the Polling Officer is particularly note worthy. The Polling Officer assured the Appellants and others that the discussion relating to vote by false persons would be reported immediately. He did not report the matter. He has made a futile attempt to conceal the truth by

by having recourse to explain away the situation. The Polling Officer attempts to establish that Voter No. 241 is the person who has voted namely Lingey Gowda son of Shambhu Gowda. Voter No. 241 is one Lingey Gowda son of Subbey Gowda. The Polling Officer wants us to believe that Su in Canarese is only a misprint for Som, forgetting that the English list being clear on the point. Further to the utter dismay of the Polling Officer and his Associates it has been proved by the evidence of P.W.4, Mari Gowda, that Voter No. 241 who was a brother of the Agent Doddey Gowda died eight years ago.

Such being the attempt on the part of the several responsible people concerned, it is hard to say there was no corrupt practice.. For these reasons, the learned Deputy Commissioner's finding that corrupt practice has not been proved cannot be accepted for a moment.

9. The Appellants have satisfactorily and clearly proved that there are material irregularities in abundance and that corrupt practice has been resorted to by the successful candidates.

For these reasons, the Appellants pray that the order of the learned Deputy Commissioner be reversed and fresh decision passed on merits.



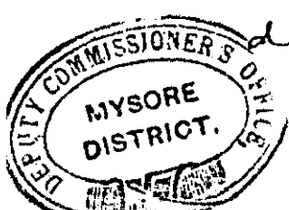
22)

In the Court of the Deputy Commissioner, Mysore District.

Objection petition 1 of 1923-24.

Petitioners.	Opponents.
1. Mr. B. Narasimhaiah	1. Mr. M. Subba Rao
2 " A.V. Rangaswamy Iyengar.	2 " Dasagowda.
3 " Lakshminarayanappa	
4 " B. Chandrasekhariya.	

Subject:— Petition dated 19th February 1924. ~~that~~ from the above named persons praying that the results of the election to the Representative Assembly from the Heggadadevankote Taluk Constituency be, for reasons stated therein, revised and declared.



Order

The first ground of objection

in this case is that the polling began at 1 P.M. instead of at 11 A.M. I find that this allegation is not proved, but that on the other hand, the polling officer (Amildar) reports that he was ready at 11 A.M. but no voter turned up at that hour; one by one only beginning to arrive at about 12.30 noon when the voting commenced. I hold that this not very important objection fails.

2. The second ground is that there was no secrecy in voting, that the voting paper was not given to the voters hands, and that the names in the voting papers were scored out at the instance of the voters by one of the associates

Sri Venkataramaiya under suspicious circumstances. The evidence adduced on these points consists of the statements of four persons of whom three have deposed to the effect that though they were literate they were asked by the associate Sri Venkataramaiya to mention the names of the candidates to whom they wished to give their votes, and that on their mentioning the names, the associate himself did the scoring out of the names in the voting paper and either gave it folded to the voter or put it in the box himself. These three persons and another, further allege that secrecy was observed in the voting, there being present in the

DEPUTY COMMISSIONER'S OFFICE MYSORE DISTRICT.

room, besides the polling officer and his two associates, two munshies of the office, helping the Amildar with the voting ~~slips~~ lists &c. Now with regard to these allegations, it is observed, that while it is true that no screens or partitions were actually placed in the voting place, the whole room was kept sufficiently private, the voters being allowed into the place, only one by one. As regards the scoring out of the names in the voting paper by [The] Associate one Venkataramaiya, this is positively denied in the case of one important witness Basavegowda alias Karigowda, though the Amildar admits that in a few instances the work of scoring out was done by one Venkata ramaiya

as an associate under this instruc-
-tions. Taking all the circumstances
into considerations, I am of opinion
that this ground of objection does not
avail the petitioners in the manner
or to the extent set out by them.

3. The next objection is a
simple one that the box was not kept
sealed. This loses its force when it
is seen that the voting and the
telling was all concluded in one day,
at one continuous sitting, and
the box was not removed from its
place till it was opened and the
counting of votes began. The necessity
of sealing would have been imperative
if the box had had to be deposited
for the next day or sent anywhere else.
The failure to seal it, however blame
worthy cannot be considered

very serious for the circumstance mentioned above, namely, that it was constantly in the presence of the voters, the polling Officer and his associates, till it was actually opened for the purpose of counting the votes. The key, it is explained, was kept with one of the associates under the instructions of the Amildar as an additional measure of pre-caution.

4. Finally, the most serious allegation is that corrupt practices have been resorted to by the successful candidates in securing votes by two persons under twenty one years of age and by one; who not being a voter falsely personated another on the electoral roll. With regard to this, there is in the first place no satisfactory much less clear evidence regarding the

minority of the two voters mentioned, and secondly, there is the view put forward that this objection cannot be now raised, the inclusion in the approved and notified electoral rolls being final and conclusive, and its correctness or incorrectness not being open to question at this stage. There is, it seems to me, some force in this view. As regards the case of false personation, the evidence does not seem to me to conclusively establish it. Even should this be held proved one vote declared invalid is found to make no difference whatever in the results. While this is so, the allegati that the successful candidates have brought about these two material irregularities by corrupt practices is not proved in any measure. There is only mere mention that one Dasa gowda was the agent of one of the successful candidates, and had b

brought the false person to vote. Similarly there is only a mere Statement that the two minor boys had been brought at the instance of a Shanbhog's Son who was acting for the other Successful candidates. There is nothing whatsoever worthy of being called evidence to connect the opponents, the successful candidates, with these irregularities, even if they should be held to effect the validity of the votes. In any case, the allegation of "corrupt practice" by the opponents entirely fails.

5. In the result, I hold that the petitioners are not entitled to succeed, and the petition is accordingly dismissed with costs on both sides.

(Sd) B. Ramaswamaiya

Deputy Commissioner
Mysore District

1st March 1924.

"True copy"

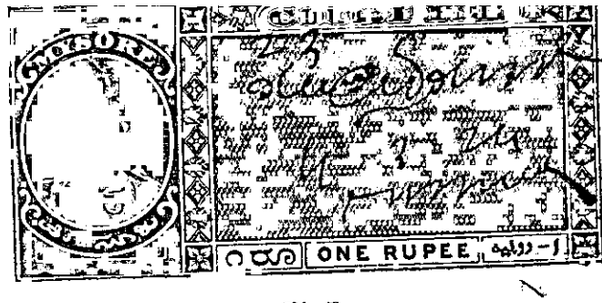
B. Ramaswamaiya
Deputy Commissioner
Mysore District.

Delivered on 2-3-1924

Copy applied on 1-3-1924
Copy ready on 1-3-1924
Copied by Mr. Krishnaswamy.

Compared by [illegible]
Number of words 840
Copying fees. 1-2-0

Comparing fees. 0-3-0



30

In the Court of the

OF

CASE No. OF 192 —192 ,

Plaintiff **Defendant**

VS

1. the abowed named do, by these presents retain
to appear
and conduct the above case on behalf to Judgment.

2. further empower him to do all these necessary acts in the above case to execute any decree, or order that may be passed in behalf, and to receive, from the Court all documents, refunds, and all sums of money that may be entitled to get and to grant receipts therefor.

3. also undertake to confirm and ratify all the legal acts done by the said Advocate or any other Advocate on his behalf in so doing.

29-2-24

Dated 192 .

Accepted

Signed before me & personally known to me.

Advocate

3·3·24

Kohinur Press, Mysore.

G. R. S. VI—G/32]

37

SUBJECT .....

.....

.....

Diary No. of letter replied to 3803

Section RA

File No. 29/23

Serial No. 6

General and Revenue Secretariat

(RA)

, the 192 .

No. P. 4947

Date of issue 7-3-24

To The Dy Com.

Mypanedh

Signed by [illegible]

Sir,

I am directed to forward for favour of an immediate report with records, appeal petition (with annexures) of M. Kiriwadumal Thas. of Weyyadadewankote against the election of Messrs M. Subba Rau & Dasegowda

over.

WD 0632—GPB—1850C—16-8-23

3.2

From Heggadadevana
Kote Taluk Rural
Constituency to the Repn
Assembly on the ground
of material irregularities
in the election held &
Corrupt practice and
requesting that the
order passed by the Dr Comr
Respondent in the matter
may be reversed and
fresh decision passed
on merits

Thanks &

List of enclosures.

cwg 5/3 For D & D Secy

Copied by

Examined

Shanbhog Lakshminarayanappa, Belathur
Neggadadevankote Tk

Dis 29-23 — 33)
Dis: 12

To early disposal of this appeal pet
If irregularities in
An appeal in due form
has already been filed

In Lieu

For disposal
warded, with compliments
to the L. L. Secy to Govt.
B.O.

ಶ್ರೀ ಕೆ.ಎಂ ಪ್ರಭು ಅವರು ಗುಜರಾತ್ ಪ್ರಾಂತ್ಯದ ಅಧ್ಯಕ್ಷರಾಗಿದ್ದ ಕಾಲದಲ್ಲಿ
ಕೆಲವು ಪತ್ರಗಳನ್ನು ಅವರಿಗೆ ಬರೆದಿದ್ದಾರೆ. ಅವುಗಳಲ್ಲಿ ಒಂದು ಪತ್ರ ಈ ಕೆಳಗಿನಂತಿದೆ.

20.2.24 ರಂದು ಅವರು ಬರೆದ ಪತ್ರಕ್ಕೆ ಉತ್ತರವಾಗಿ ಬರೆದ ಪತ್ರ

ಶ್ರೀ ಕೆ.ಎಂ ಪ್ರಭು ಅವರಿಗೆ

7.3.1924

ಅಭಿಮಾನದಿಂದ

No.
R.H.C. 601/23-24

1 file.

OFFICE OF THE DEPUTY COMMISSIONEI
MYSORE DISTRICT,

Dated, Mysore, 10th March 1924. ~~192~~

P 4947-29-23
R.A. 14A

35

From

B.Ramaswamaiya, Esquire, B.A.,B.L.,
Deputy Commissioner, Mysore District.

To

B.Nagappa, Esquire, Bar-at-law.
Secretary to the Government of His Highness
the Maharaja of Mysore, Bangalore.
(Local and Legislative Departments)

SIR,

In reply to your letter No. P. 4947/R.A. 29-23-61 dated the 7th March 1924, I have the honor to forward herewith the entire file of records as per phairist relating to objection Petition No. 1/23-24 on the file of this court (Petitioners. Messrs C.Narasimhaiya and others Vs Messrs Subba Rao and Dase Gowda.)

The facts of the case have been fully set forth in my order dated the 1st March 1924 which is in the file. The enclosures received with your letter under reply are returned herewith.

I have the honor to be,

Sir,

Your most obedient servant,

Personal Asstt

Deputy Commissioner,
Mysore District.
(Absent from Headquarters)

BNR.

19 23599

From

The Deputy Commissioner,

Mysore District.

To

The Secretary to Government,
Local & Legislative Departmen
B a n g a l o r e.

Dated 10th March 1924.

Despatched

Received

General No. R.H.C. 601/23-24

No.

Enclosure No. 2 files.

Forwarding records re the objection petitions of Messrs C.Narasimhayya and others as called for.)

4897

M. Venkatakrishnayya,
PROPRIETOR,
The Sadhvi & Sampadabhyudaya

LAKSHMIPURAM, MYSORE.

Dated 12:3:1924.

D. no. 1941/Reg
R-A 29-23-28 36

P 3978

My Dear Sir,

As per our personal Conversation yesterday, I have sent herewith copies of papers relating to the Conduct of Election in Heggadevankote Talugre: Mr. C. Narasimiah, Advocate, Mysore. The Originals of all these papers are in the file - Appeal, already submitted to the Government by Mr. C. Narasimiah.

Yours Sincerely
M. Venkata Krishnayya

Forwarded, with compliments, to the Secretary, Representative Assembly, for favour of further action.

Camp-Mysore,
13th Mar. 1924.

13-3

Forwarded with Compliments to the Local & Legislative Secretaries, it is believed, is dealing with the matter.

14/3

17/3

Contents.

6. An appeal from an order under Rule 4 may be presented to the following authorities within a week after the communication of such order:—

In the case of all rural constituencies except the Kolar Gold Fields Sanitary Board constituency and all urban constituencies except Bangalore and Mysore.	The Deputy Commissioner of the District.
In the case of the Kolar Gold Field Sanitary Board Constituency and the Bangalore and Mysore urban constituencies.	The President of the Sanitary Board or the Municipal Council.

7. The order of the revising authority, or, where there is an appeal from such order, the decision of the appellate authority, shall be final and the electoral roll shall be amended in accordance therewith and the amendment published in the same manner as the original roll or as Government may direct.

8. The electoral roll thus revised shall continue to be in force for a period of three years or for such period as the Government may prescribe and after the expiration of such period a fresh roll shall be prepared in accordance with these rules.

9. Every person registered in the electoral roll for the time being in force for any constituency shall, while so registered, be entitled to vote at an election of a member or members for that constituency.

PART II.

CONDUCT OF ELECTIONS.

A—Rural Constituencies.

1. Whenever a general election to the Representative Assembly or an election to fill up a casual vacancy is to be held, the Government shall fix a date and shall by notification in the Official Gazette not less than six weeks previous to the date fixed for the election and in such other manner as they may decide give due publicity of such date.

2. Such of the eligible persons as wish to stand for election in any rural constituency shall furnish their names in writing to the Amildar or Deputy Amildar or the Vice-President of the Kolar Gold Fields Sanitary Board as the case may be within such time as may be fixed by Government.

3. The said officer shall, if he is satisfied that such persons are eligible to stand for election, prepare a list of such candidates which shall be posted up under his signature in his office. A copy of the list shall also be published in the *Mysore Gazette* by the Deputy Commissioner of the district in which the constituency is situated or by the President of the Kolar Gold Fields Sanitary Board area in the case of the Kolar Gold Fields Sanitary Board Constituency.

4. (1) If the number of candidates standing for election is equal to the number of vacancies, all such candidates shall be declared duly elected.

(2) If the number of candidates is less than the number of vacancies, all such candidates shall be declared duly elected and the Deputy Commissioner shall, by a notification in the Official Gazette and in such other manner as Government may direct, call for fresh candidates for the remaining vacancy or vacancies and have the election conducted in accordance with these rules.

5. If the number of candidates is more than the number of vacancies, a poll shall be taken.

6. There may be more than one polling centre in each constituency and the polling shall take place at such centres and at such hours as may be notified by the Deputy Commissioner and it shall be conducted by an Amildar or Deputy Amildar or the Vice-President of the Kolar Gold Fields Sanitary Board or such other person as may be nominated by the Deputy Commissioner or the President of the Kolar Gold Fields Sanitary Board in this behalf. It will also be open to the Deputy Commissioner or the President to nominate one or two non-officials who may be associated with the polling officer for assisting him in conducting the poll.

7. Every voter is entitled to give as many votes as there are vacancies in the constituency, provided that not more than one vote may be given to the same candidate. A vote for any person whose name is not included in the list of candidates published under Rule 3 shall not be counted.

8. Voters must vote in person.

9. The vote shall be given by ballot.

10. (*a*) The elector shall proceed to a place screened from observation which shall be provided by the polling officer and there mark his vote on the voting paper in accordance with the instructions contained therein.

(*b*) The instructions which will be in Kannada should be clearly explained to any elector requiring such explanation.

(*c*) If an elector is unable to read or write or is, by reason of blindness or other physical defect, incapacitated from recording his vote as required by rule, the polling officer may assist him, if so desired, in marking the vote on the voting paper and a record of the same shall be made on the voting paper and attested by the polling officer.

(*d*) The voting paper should be folded and closed and put into the voting box by the voter himself.

(*e*) Any vote which is not recorded in accordance with the foregoing instructions shall be declared invalid.

11. The ballot box shall be so constructed that the ballot paper can be introduced but not extracted without the box being unlocked, and it shall be securely sealed by the polling officer with his seal.

12. The polling officer shall satisfy himself as to the identity of the persons tendering votes and may refuse the vote of any person who declines to answer any reasonable question put to him for this purpose or whose identity is not established to his satisfaction. He is also responsible for seeing that the votes are recorded with absolute secrecy, that no person who is not entitled to vote is admitted near the voting table and that persons who have recorded their votes leave the place immediately.

13. After the close of the poll, the polling officer shall forthwith have the voting papers scrutinised and the votes counted and announce the results, provided that where this is not practicable or the ballot box has to be sent to taluk or other head-quarters for counting, the polling officer shall have the box sealed with his own seal as well as those of such of the candidates or their agents as may wish to do so and arrange for their safe custody until such time as the box is despatched to the telling officer at such headquarters.

14. (i) The box aforesaid shall be opened in a place to which candidates or their agents shall have access.

(ii) The votes shall be scrutinized and those that are valid counted by such persons as the polling officer appoints in this behalf.

(iii) If there is an equal number of votes in favour of each of two or more candidates, and the addition of one vote will entitle any of the candidates to be declared elected,, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the polling officer and in such manner as he may deem fit.

15. The results of every election shall be certified by the polling officer to the Deputy Commissioner or the President of the Kolar Gold Fields Sanitary Board, as the case may be, who shall report the same to Government for being notified in the *Mysore Gazette*.

B.—Urban Constituencies.

The rules relating to the conduct of elections in rural constituencies shall apply to urban constituencies with the following modifications:—

I. The authority to whom candidates should notify their intention to stand for election shall be the Vice-President or the Chief Officer of the Municipal area concerned in the case of the Bangalore and Mysore urban constituencies and the President in the case of other urban constituencies.

2. The polling officer shall be the President, Vice-President or Chief Officer as the case may be. In case there is more than one polling station, the President may depute a member or members of the Council as polling officer or officers.

3. The certified results of the elections shall be sent to the President who will report the same to the Government for being notified in the Gazette.

C.—Associations representing Special Interests and Minorities.

The election of a member by an association recognised by Government for the representation of a special interest or a minority under the rules framed by them on that behalf shall be made at a general meeting at which not less than 25 per cent of the number of members of the association or 50 members whichever is less, are present. The roll of membership of the association referred to in Rule (d) of the rules laid down in para 23 of G. O. No. 1367-1426—C. B. 100-23-1, dated the 27th October 1923 shall be conclusive evidence of the membership of the association.

When any special interest or minority is represented through more than one association or through an association with branches which are grouped together by Government under rule (c) of the rules referred to above for the election of a member or members to be returned for the representation of the special interest or minority concerned, Government may appoint a special officer for preparing the roll of electors and the conduct of elections. Such special officer shall have power, subject to the general or special orders of Government, to arrange for the poll and declare the results.

In the case of the constituencies formed for the representation of the Mysore University and legal interests, the Registrar of the Mysore Univerisity and the Registrar of the Mysore Chief Court shall be polling officers of the constituencies concerned and the Vice-Chancellor and the Chief Judge or such other person as may be appointed by them shall be the appellate authority in respect of all matters connected with the conduct of elections.

Government may by a special order permit election through postal voting in the case of any special interest or group of associations which in the opinion of Government cannot hold the election at a meeting.

By Order,
B. NAGAPPA,
Secretary to Government,
Local and Legislative Departments.

NOTIFICATION No. P. 2400—LEGIS. 12-23-7, DATED 7TH NOVEMBER 1923.

In exercise of the powers vested under Section 6 (2), (*f*), the Government of His Highness the Maharaja are pleased to make the following rules as regards the decisions of doubts and disputes as to the validity of any election to the Representative Assembly and the authorities by which they are to be decided.

1. No election shall be valid if any corrupt practice is committed in connection therewith by the candidate elected or at his instance.

2. A person shall be deemed to commit a corrupt practice within the meaning of these rules:—

(i) Who with a view to induce any voter to give or to refrain from giving a vote in favour of any candidate offers or gives any money or valuable consideration or holds out any promise of individual profit or holds out any threat or injury to any person.

(ii) Who himself or through his agent or at his expense feeds or entertains his voters shortly before or after the poll, or pays the expenses of travel or hired conveyance, in order to induce them to give votes in his favour; or

(iii) Who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Explanation.—A corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent or by a person who is acting under the general or special authority of such candidate with reference to the election. A "promise of individual profit" includes a promise for the benefit of the person himself or of any one in whom he is interested.

3. Every petition against the return of any candidate at an election to the Assembly on the ground of corrupt practice or on the ground of any material irregularity shall be presented in writing to the Deputy Commissioner by any person who was a candidate at the election or by not less than twenty-five voters within one week after the day on which the result of election was declared.

4. The petition shall specify the acts which the objector or objectors allege as amounting to corrupt practice or material irregularity and affecting the result of the election and which he or they are prepared to substantiate; and shall on presentation be supported by a statement made on oath by each objector. Provided that, on sufficient cause being shown, the limit of one week prescribed by this rule may be extended by the Deputy Commissioner.

5. Every objection petition shall be accompanied by a deposit of Rs. 100 (one hundred) as security for all costs, charges and expenses which may become payable by the applicant.

6. (*a*) The petition shall be posted for hearing, and notice thereof shall be given to the candidate whose election has been objected to. The Deputy Commissioner after receiving the explanation of the latter shall hold a summary enquiry as defined in the Land Revenue Code into the allegations and record a finding thereon. If he finds that persons not included in the list of voters have been allowed to vote, he will himself modify the elections by excluding the votes of persons not authorised to vote. If he finds that a candidate is guilty of corrupt practices, he shall order such elections to be invalid and declare the person who has secured the next highest number of votes as the candidate duly elected. An appeal shall lie to Government against the decision of the Deputy Commissioner; and the order of Government will be final.

(*b*) Where the enquiry does not clearly establish the objections alleged, but the Deputy Commissioner doubts the validity of elections, the records together with his opinion will be submitted for orders of Government.

(*c*) After the cases are thus finally disposed of the results of election will be published by the Government in the *Mysore Gazette*.

By Order,

B. NAGAPPA,

Secretary to Government,

Local and Legislative Departments.

Appeal against the order of the Deputy - Commissioner, Mysore District.

The Appellants beg to submit this appeal against the order of the Deputy Commissioner, Mysore District, dismissing the objection Petition re the election of two Members to Representative Assembly from the Heggadadevanakote Taluk, for the following among other reasons:-

1. Rules regulating the conduct of election declare that election should begin at 11 precisely. But the learned Deputy Commissioner while believing that voting actually began at 12.30 seems to rely upon the explanation of the Polling Officer - the Amildar. Respondents' own witnesses D.W.1 Dyavanna says " I came at 10 O'clock and voted at 9.30. " - D.W.3 Mudde Gowda says " I came at 11 - Vote began at 12 and I voted at 2." In the face of the - evidence of the opposite side, the explanation is untenable and is only a plea for some explanation. The learned Deputy Commissioner has erred in law in holding that this is not very important. (On the last Election, Seringapatam - Polling commenced at 11.10, declared illegal and fresh election ordered).

2. Under Rules relating to conduct of election. Rule 10 (a) declares the elector should proceed to to a place screened from observation which shall be provided by Polling Officer and there mark his vote.

In para (2) of his order the learned Deputy Commissioner is positive that no

no screens or partitions were actually placed ~~ex~~"in the voting place." The - learned Deputy Commissioner had in fairness and as per direction of law ought to have decided the point in favour of the Appellants But the learned Deputy Commissioner goes beyond the section of law and declares - contrary to the evidence adduced by the successful candidates - that the whole room was kept sufficiently private. It is really difficult under the circumstannes to find out what is sufficient and privacy when de~~viation~~ reckon of law is disobeyed. On this - point besides the evidence of four very respectable witnesses on the Appellants' side- there is the evidence of D.W. 3 Muddo Gowda, D.W. 4 Dyave Gowda, who depose that they were openly questioned before five persons and one of them was their Shanbogue and that they gave out the names openly to the hearing of all the five. When these voters were asked openly in the presence of the local Magistrates and officials, especially when two of them as admitted by the successful candidate were of the same community as himself - with what grace the voters would speak out their mind is the point for consideration.

3. Rule 10 (c) says if an elector is unable to read or write ..... the Polling Officer may assist him in marking the vote on the vote paper and a record of the same shall be made

made on the vote paper and attested by the Polling Officer. The procedure is absolutely ignored. No heed paid. No attention or initial made on vote paper. Under vote papers in original

The Polling Officer admits in clearer terms that during the polling one Mr. Syed Rahim Sab (P.W.3) portested against the method of business and said that Mr. Venkataramiah, an Associate had no authority to strike out the names. It is also admitted that an application signed by some voters and candidates were presented then and there protesting against the wrong and high handed procedure of polling.

The learned Deputy Commissioner writes in para 2 of his order the Amildar admits that in a few instances the work of scoring was done by Mr. Venkataramiah as an Associate under his instruction - "But the learned Deputy Commissioner opines that this ground of objection does not avail the Petitioners." The Appellants are unable to understand the learned Deputy Commissioner.

Can be so in under rule (10)(e) No he cannot

Rule 10 (e) says:- Any vote which is recorded in accordance with the foregoing instruction shall be declared invalid. Under this rule no option is left to the learned Deputy Commissioner to ignore the direction of law. He ought to have declared all the votes as invalid inaccepting some plausable

the same with his o

(5) Rule (11) says:- "The ballot box shall be constructed ..... it shall be securely sealed by the Polling Officer with his seal." The Polling box had not been sealed. With regard to this the learned Deputy Commissioner in para 3 of his order says "the failure to seal it, however blame-worthy cannot be considered." If every item of objection is so disposed of summarily without regard to the direction of law, the Appellants may not have a case.

(6) The Appellants contend that key of the ballot box was with Mr. K. Subba Rao, one of the successful candidates.

With regard to this the learned Deputy Commissioner observes in para 3 of his order "the key it is explained was with one of the Associates under the instructions of the Amildar as an additional measure of precaution." This does not seem to be the explanation of any one Appellants' witnesses swear that the key was with Mr. K. Subba Rao and he gave the key to Polling Officer.

Respondent No. 1, Mr. Subba Rao says the Legislative Council box key was with me and the key of the Representative Assembly was kept on the table.

Respondent No. 2 says Legislative Council box key was with Mr. K. Subba Rao and the Representative Assembly box key was with Appellants.

The Appellants are unable to understand how one of the Associates came to have the key. During the course of the conduct of the case the Appellants requestdd the Deputy Commissioner to let them know whether any explanation is forthcoming from the Amildar about the possession of the key. The Deputy Commissioner replied that there is no explanation on that point. Under the circumstacnes, the learned Deputy Commissioner had no material to arrive at that conclusion.

7. The Appellants allege corrupt practice on the part of the successful candidates. The learned Deputy Commissioner holds that "Corrupt Practice" has not been proved. On this point the learned Deputy Commissioner has not read the evidence in the case and his conclusions are incorrect.

Respondent No. 1:- Shanbogue Venkatasubbia says and his son Subba Rao may have canvassed for me. They are my caste men.

It is note worthy that voters Nos. 38 and 48 are raiyats of the village or villages of which Subba Rao is a shanbogue. Voters 38 and 48 are minors below 21 years of age. The learned Deputy Commissioner observes with regard to this item that there is no satisfactory or clear evidence. The best evidence would have been the boys themselves. The Appellants summoned these but the summons were never sent nor was the Appellants to produce

produce the boys before Court. However there is the evidence of D.W.4 who says that voter No. 38 is between 10-16 years and is not more than about 4 feet. When the ~~X~~ appellants case is proved by the hostile party itself it is strange to say that there is no satisfactory evidence. Further the learned Deputy Commissioner's argument that the Appellants cannot raise this objection after the voters' names are published is erroneous. Age rule is independant of the electoral roll.

8. It is alleged in the original petition para IV that one Linge Gowda son of Shambu Gowda is not a voter. That 2nd Respondent Mr. Dasey Gowda has through his agent Patel Dodde Gowda of Chakkur secured a vote by that Linge Gowda.

This allegation, namely, that Patel Doddey Gowda was his Agent is not denied by the 2nd Respondent, the successful candidate.

On this point there is evidence on record which shows that Patel Doddey Gowda was 2nd Respondent's Agent.

P.W.1, Kari Gowda, says, that 2nd Respondent with the said Doddey Gowda had come to his village for canvassing and that the latter requested him to vote for 2nd Respondent.

P.W.4, Mari Gowda, says, that 2nd Respondent Doddey Gowda are caste people, that 2nd Respondent stopped in Doddey Gowda's house in

There is no counter evidence. Such being the case, it is conclusively proved that Doddey Gowda was 2nd Respondent's authorised Agent, if not of both - Respondents.

Corrupt Practice is defined in Government - Notification No. P. 2400 dated 7th November 1923. Para 2 (iii) says - who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote " and explanation under the same Rule runs as follows:- a corrupt practice shall be deemed to be committed by a candidate, if it is committed/ with his knowledge and consent or by a person who is acting under the general or - special authority of such a candidate with reference to the election."

It is admitted by the successful candidates and particularly by 2nd Respondent that there was some trouble with regard to the voter, Linnoy Gowda son of Shambu Gowda. The details of discussion before the Polling Officer in narrated in para of the original petition. From that it will be seen that it was not by ignorance that that voter was brought but was brought by authorised Agent Doddey Gowda deliberately to vote for the successful candidates.

In this connection the conduct of the Polling Officer is particularly note worthy. The Polling Officer assured the Appellants and others that the discussion relatin to vote by false persons would be reported immediately. He did not report the matter. He has made a futile attempt to conceal the truth by

explain

by having recourse away the situation. The Polling Officer attempts to establish that Voter No. 241 is the person who has voted namely Linoy Gowda son of Shambhu Gowda. Voter No. 241 is one Linoy Gowda son of Subbey Gowda. The Polling Officer wants us to believe that En in Canarese is only a misprint for Som, forgetting that the English list being clear on the point. Further to the utter dismay of the Polling Officer and his Associates it has been proved by the evidence of R.W.4, Hari Gowda, that Voter No. 241 who was a brother of the Agent Subbey Gowda died Eight years ago.

Such being the attempt on the part of the several responsible people concerned, it is hard to say there was no corrupt practice. For these reasons, the learned Deputy Commissioner's finding that corrupt practice has not been proved cannot be accepted for a moment.

9. The Appellants have satisfactorily and clearly proved that there are material irregularities in obtaining and that corrupt practice has been resorted to by the successful candidates.

For these reasons, the Appellants pray that the order of the learned Deputy Commissioner be reversed and fresh decision passed on merits.

50)

In the Court of the Deputy Commissioner
Mysore District.

objection petition 10f 1923-24

petitioners	opponents.
1 Mr. L. Narasimhiah	1 Mr. J. Subbarao
2 " M. V. Rangaswamy Iyengar	2 " Base Gowda
3 " Lakshmi Narayanappa	
4 " B. Chandrasekhariya	

Subject:— petition dated 19th febrary 1924 from the above named persons praying that the results of the election to the Representative Assembly from the Heggadadevan Kote Taluk Constituency be, for reasons, stated therein revised and declared

order

I The first ground of objection in this case is that the polling began at 1 P.M. instead at 11 A.M. I find that this allegation is not proved, but that on the other hand, the polling Officer (Amildar) reports that he was ready at 11 A.M. but no voter turned up at that one by one only beginning to arrive at about 12.30 noo. when the Voting commenced. I hold that this not Very important objection fails.

(2) The second ground is that there was no secrecy in Voting that the

that the Voting Paper was not given to the Voters, hands, and that the names in the Voting Papers were scored out at the instance of the Voters by one of the associates.

Mr. Venkataramiya under suspicious circumstances. The evidence adduced on these points consists of the statement of four persons of whom three have deposed to the effect that though they were deliberate they were asked by the associate Mr. Venkataramiya to mention the names of the Candidates, to whom they wished to give their votes and that on their mentioning the names, the associate himself did the scoring out of the names in the Voting paper and either gave it folded to the Voter or put it in the box himself. These three persons, and another further allege that no secrecy was observed in the packing. there being present in the room besides. the polling officer and his two associates, two munshies, of the office helping the Amildar viz: the Voting lists etc. Now with regard to these allegations it is observed that while it is true that no screens or partitions were actually placed in the Voting place. The whole room was kept sufficiently [illegible]

the Voters being allowed into the place only one by one. As regards the scoring out of the names in the Voting Paper by the associate Mr. Venkata ramiga, this is positively denied in the case of one important witness Basavegowda alias Karigowda. Though the Amin admits that in a few instances the work of scoring out was done by Mr Venkata ramiga as an associate under his instructions. Taking all the circumstances into consideration, I am of opinion that this ground of objection does not avail the petitioners in the manner or to the extent set out by them.

3. The next objection is a simple one, that the box was not kept sealed. This loses its force when it is seen that the Voting and the telling was all concluded in one day at one continuous sitting and the box was not removed from its place till it was opened and the counting of Voters began. The necessity of sealing would have been imperative, if the box had had to be deposited for the next day or sent anywhere else. The failure to seal it however blame-worthy cannot be considered very serious for the circumstance mentioned namely, that it was constantly in the presence of

associates, till it was actua[illegible] ofence - for the purpose of co[illegible]ting the votes. The key it is esp[illegible] was kept with one of the [illegible]ciates under the instructions of the Amildar as an additional measure of precaution.

4 Finally the most serious allegation is that corrupt practices has been resorted to by the successful candidates in securing votes by two persons under twenty one years of age and by one who not being a voter falsely personated another on the electoral roll. With regard to this, there is in the first place no satisfactory much less clear evidence regarding the minority of the two voters mentioned and secondly there is the view put forward that this objection cannot be now raised, the inclusion in the approved and notified electoral rolls being final and conclusive and its correctness or incorrectness not being open to question at this stage. There is it seems to me some force in this view. As regards the case of false personation the evidence does not seem to me to conclusively establish it. Even should this be [illegible] proved one vote declared invalid is found to make no difference whatever in the results. Which this

the allegation that the successful candi... have brought about these two meterial irregularities by currupt practices is not proved in any measure There is only a mere mention that one ~~Dase~~ Gowda was the agent of one of the successful candidates and has brought the false person to vote similar ... there is only a mere statement that the two minor boys had been brought at the instance of a shanbhog's son who was acting for the other successful candidate. There is nothing whatsoever worthy of being called evidence, to connect the opponents the successful candidates, with these irregularities even if they should be held to effect the vet Validity of the Votes. In any case the allegation of "currupt practice" by the opponent entirely fails.

5. In the result I hold that the petitioners are not entitled to succeed and the petition is accordingly dismissed with costs on both sides.

(Sd) B. Ramaswamiya

Deputy Commissioner
Mysore District.

TO

The Deputy Commissioner,
Mysore District, Mysore.

Sir,

We were the candidates for election to the Representative Assembly from the Heggadadevanakote Taluk. During the course of the election several illegalities were brought to our notice as well as to the notice of other candidates and voters. Some of us have filed a petition before the Polling Officer detailing the illegalities during the course of voting and long before the voting box was opened.

2. The following are some of the illegalities and malpractices:-

(i) The election began at 1 P.M. and continued upto 10 P.M.

(ii) There was no secrecy in the Polling Room. There was no separate place set apart for voting. Five persons were present in the Polling Room. The Polling Officer, Mr. Venkataramiah and Mr. Venkata Devaiva (both Bench Magistrates) Associates, all were seated in one table, the Head Munshi was on the right of the Polling Officer and the Deputy Munshi was on the left side of the Officer each with a voters' list in his hand. The table for

for keeping the voting box was about 3 to 4 feet from the Polling Officer's table to his right. - There was no separate ink bottle or pen provided in any other place. Whenever any voter went to the Polling Room, the voter would be asked openly for whom he is going to vote.(Evidently the Associates were Bench Magistrates and one of the Associates, Viz., Mr. Venkatadeviah and the Deputy Munshi are of the same community as Mr. M. Subba Rao. Further it has been settled that the candidates daughter is to be given in marriage to the Associates son. Mr. M. Subba Rao, the successful candidate stops generally with the Associate Mr. Venkatadevavya and had particularly stayed with that gentleman on the day of election and on the previous day. One of the Asscciates Mr. Venkataramayya would score out the names in his own hand. This was the general method adopted irrespective of the fact whether the voter was literate or illiterate. We did not know this method of work till it was brought to our Mr. C. Narasimhayya's notice by one Basave Gowda alias Kari Gowda, Voter No. 9 of Hyrige village. He came and told us in the presence of several voters and other candidates that he is a literate man and that no voting paper was given to his hands, that the - usual method of asking openly for whom he was going to vote was asked of him and he mentioned Mr. Narasimhayy's name. As usual the Associate - scored out the names. But the voter was anxious to see whose names had been scored out and he asked the Associate to give him the vote paper to see whether he has scored out the right names. On

On seeing the paper the voter it appears found that my name had been scored out. On his questioning why Mr. C. Narasimhayy's name had been scored out the matter seems to have been set right. - While the above said voter was narrating these facts, several voters both literate and illiterate mentioned that no vote paper was given to their hands also and whose names had been scored out and whose retained. Among the literates that mentioned this fact are voters Nos. 122, 123; 10, 55 nad 14 (supplimental list). Among the illiterate voters Nos. 53, 177; and 42 in the supplimental list. At this stage Mr. Rahiman Sab of Jinahalli and voter and a Taluk Board Member wanted to know what these voters said was true and he went inside the Polling Room, There he saw and found that what the voters told was true. He then - questioned the Associate Mr. Venkataramiah why he was scoring out the names himself without giving the vote papers to the voters hands. Mr. Venkataramiah replied that he was scoring out names because he was asked by the Polling Officer to do so. Under the circumstaches, we hesitate to accept that the Associate has scored out the right names. This procedure is entirely opposed to Rule 10. There was no voting by ballot. There was only voting before Panchayat.

2. A person below 21 is incompetent to vote. Voters Nos. 38 and 48 are below 21 years of age. Successful candidates or at least one of the -

the successful candidates has through his Agents and relations secured these illegal votes. The Voters Nos. 38 and 48 are the ryots of the villages of which the Shanbogue is a caste man of one of the successful candidates and the Shanbogue's son was seen actively engaged in canvassing votes for the successful candidate near the Polling Office entrance. This amounts to corrupt practice.

3. One of the successful candidates at least Mr. Dase Gowda has through his Agent Patel Dodde Gowda of Chakkur secured a vote by one Linge Gowda son of Shambu Gowda. This man's name is not in the list of voters. Voter No. 241 and voter in the supplimental list No. 87 there are names Linge Gowda bin Subbe Gowda and Linge Gowda bin Linge Gowda of Chakkur. The false person entered the Polling Room and told the Polling Officer that he was the son of Linge Gowda and he voted positively for Mr. Dase Gowda and put his vote paper to the box. Just then Mr. Lakshminarnanna cried out that he was a false person and that his vote has been recorded. The man had already left the Polling Room and was moving fast when at the request of Mr. Lakshminarnanna the Polling Officer sent his Jaffedar to fetch the man. We all went inside. When the man was brought before the Polling Officer in the room, Mr. Narasimhayya questioned him who was his father. He said his father was Shambu Gowda. Again another question was put by the Polling Officer. He said stammeringly his father's name was Linge Gowda. Then the Polling

Polling Officer asked him to speak out the truth. He said his father was Shambu Gowda. ~~xxxxofxShambu Gowda brother xofxSubbe Gowda~~ Mr. Rahiman Sab identified the man as the son of Shambu Gowda brother of Subbe Gowda. Then Mr. Narasimhayya questioned him who brought him. He said Patel Dodde Gowda brought him. Then Patel Dodde Gowda was sent for and was asked why he brought the man. He said he was his uncle's son and so he was brought for voting. Mr. Narasimhayya then requested the Polling Officer to make a note of all these things. He said he would. We are sure by this time the Polling Officer will have sent his report with regard to this incident. This is really a case of corrupt practice for which the successful candidate is responsible. This is one of the incident that was brought to our notice. We do not know how many ~~xxxxxx~~ votes are recorded by such false personages especially when there was no one to identify the voters.

4. Before voting commenced the empty voting box was opened and seen but after it was locked we do not know to whom the key of the box was given. The box had not been sealed by the Polling Officer. When the voting was finished. The Polling Officer asked where is the key. The Associates said it was with Mr. M. Subba Rao, the successful candidate, who produced it before the voters and candidates. We do not know who gave the key to Mr. Subba Rao and when. During the period of voting we saw the Polling Officer going out twice and the Associate Mr. Venkataramiah once, and the Head Munshi and

and Deputy Munshi once. But we did not see the other Associate Mr. ~~Venkataramiah~~ Venkatadevish outside the Polling Room at any time. We further submitted an application to the Polling Officer not to open the box and count the votes and that special permission of the Deputy Commissioner be obtained. Anyhow the Polling Officer chose to open the box and count the number of votes.

5. As the election began at 1 P.M. instead of 11 A.M. and closed at 10 P.M. many voters could not vote and had to go away disappointed.

6. The above circumstances clearly establish the facts:-

(a) That directions of Rule 10 and its clauses are not obeyed; that implicit confidence cannot be placed on the fact that right names are retained and other names scored out:

(b) That voters below 21 years of age are made to vote for successful candidates;

(c) That successful candidates or candidate have resorted to corrupt practice of getting votes by false person;

(d) There was no vote by ballot but there was vote before the Panchayatdars publicly; and

Other illegalities many in number will be explained in person or evidence adduced if necessary.

For these and other reasons we pray that the matter may enquired into as per para 6(c) of G.O.No. P.2400/Leg. 12-23-7 dated 7th November 1923 and the

and the results of the election revised and declared.

We beg to remain,

Sir,

Your most obedient servant,

G. R. S. VI—G/32]

SUBJECT Dismisses an appeal petition of Messrs C. Narasimiah & others of Heggadadevankote re: election to the Rep: Assembly from Heggadadevankote rural constituency.

Diary No. of letter replied to 3978

Section. RA

File No. 29-23

Serial No. 60

General and Revenue Secretariat

(RA)

the *192* .

No. 747

Date of issue 18/8/24

Signed by W. F.

To

Messrs C. Narasimiah.
Belathur Lakshminarayana
and others
Candidates for election
to the Rep: Assembly
Heggadadevankote

With reference to their
appeal petition Regd No:
3803 dt 5th March 1924
appealing against the
election of ~~Messrs~~ order
of the Deputy Commissioner
Mysore declaring Messrs
M. Subbia Rao & Dase
Gowda as members
of the Rep: Assembly

Dis. 168.

The Heggadadevankoti
requesting
ural Constituency, & stating
that the Account of certain
irregularities alleged
to have taken place in the
election proceedings, the order
of the Dy Commissioner may
be reversed and fresh
decision passed on merits.
Messrs C. Narasimiah, Belathur
Lakshminarappa & others are
informed that on a perusal
of the records & a careful
Consideration of all aspects
of the case, Government Consider
~~are of opinion~~ that the
irregularities if any,
are not such as to vitiate
the election.
The appeal is
Accordingly dismissed
By order

List of enclosures.

Copied by

Examined by

WD 2215--GPB--2,000--6-6-24

8/
13/8. Hon Local & Legis: Secy
Memo No 7482 Dy 18/8/24
Records
Copy of the above is forwarded
to the Dy Comr Mysore for
information with reference to correspondence
ending with Letter No: 3980 Dtd 6.3.24
and the file of records received therewith is returned.
By order